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23494	7590	05/10/2007	EXAMINER	
TEXAS INSTRUMENTS INCORPORATED			NGUYEN BA, HOANG VU A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/923,232	MILOVANOVIC ET AL.	
	Examiner	Art Unit	
	Hoang-Vu A. Nguyen-Ba	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10, 12, 29, 34, 46, 49 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 12, 29, 34, 46, 49 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed January 26, 2007.
2. Claims 1, 10, 12, 29, 34, 46, 49 and 52 are independent claims and remain pending.

Response to Amendments

3. Per Applicant's request, Claims 1, 10, 12, 29, 34, 46, 49 and 52 have been amended and Claims 2-9, 11, 13-28, 30-33, 35-45, 47-48, 50-51 and 53-54 have been canceled.

Response to Arguments

4. Applicant's amendments to the claims and related arguments have been fully considered but are moot in view of the new grounds of rejection.

Claim Objection

5. Claim 34 is objected to because of the following minor informalities:

Claim 34:

- a. Claim 34 recites the limitation "device comprising:" in the preamble. An article such as – A – should be inserted before "device comprising:"
- b. Claim 34 recites the limitation "the remote control device" at line 9. This limitation lacks proper antecedent basis.

Claim Rejections – 35 USC §112

6. The following is a quotation of the first paragraph of 35 U.S.C. §112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full clear, concise, and exact terms as to enable any person skilled in the art to

which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 49 is rejected under 35 U.S.C. § 112, first paragraph, as being single means claim. MPEP 2164.08(a).

A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. § 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to Hyatt is possible, where the claims cover every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor.

In the instant application, Claim 49 covers every conceivable means (e.g., toe print sensor, among other biometric sensors) for achieving the stated purpose of acquiring data related to a user.

Claim Rejections – 35 USC § 103

8. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 10, 12, 29, 34, 46, 49 and 52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,920,642 to Merjanian (art of record) in view of U.S. Patent No. 6,130,726 to Darbee et al. ("Darbee") (art of record).

Claim 1

Merjanian discloses *a system for user recognition and customized content provisioning, the system comprising:*

a remote control device having a plurality of control keys, the remote control device including a fingerprint sensor embedded in one of said control keys, whereby activation of said one of said control keys reads fingerprint data of a user's finger (see at least FIG. 7); and
an apparatus capable of presenting customized content to the user controllable by activation of said plurality of control keys, the customized content selected dependent upon said fingerprint data of the user's finger (see at least 3:27-53).

Merjanian does not specifically disclose *said control keys including at least some control keys disposed in a thumb actuated cross configuration, and wherein said fingerprint sensor is integrated within a middle portion of the thumb operated cross configuration.* However, in an analogous art, Darbee teaches a remote control device with an OK, or PPV control key disposed within the middle portion of the thumb operated cross configuration (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon some assessment of the viewing habits or preferences of the user (3:31-39), or selecting the PPV option. Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PPV control key as this would enable or activate the remote controller to download

the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 10

Merjanian discloses *an apparatus for content provisioning comprising:*

means for acquiring data related to a user without active user input or participation, the means for acquiring data including a remote control device having a plurality of control keys and a fingerprint sensor (see at least FIG. 7; as for the limitation without active user input or participation, the Office's interpretation of this requirement is that the user does not have to actively input any information or actually press any key to have the sensor read the fingerprint of the user as described by Merjanian at 11:30-31 – the user only need placing his/her digit on the sensor); and

means for presenting customized content to the user controllable by activation of said plurality of control keys, said customized content selected in response to said fingerprint data of the user's finger (see at least 3:27-53).

Merjanian does not specifically disclose that *the fingerprint sensor is embedded in one of the control keys and whereby activation of said one of said control keys reads fingerprint data of a user's finger, said control keys including at least some control keys disposed in a thumb actuated cross configuration, and said fingerprint sensor is integrated within a middle portion of the thumb operated cross configuration.* However, in an analogous art, Darbee teaches a remote control device with an OK, or PPV control key disposed within the middle portion of the thumb operated cross configuration (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon

some assessment of the viewing habits or preferences of the user (3:31-39), or selecting the PPV option. Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PPV control key as this would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 12

Merjanian discloses *a television system comprising:*

a remote control device having a plurality of control keys, the remote control device including a fingerprint sensor (see at least FIG. 7);

a processor communicatively coupled to the remote control device, the determining characteristics of the user based upon the fingerprint data (see at least 11:17 – 12:14); and

a display providing content to be viewed by the user, the content being customized for the user based upon the characteristics determined by the processor (see at least 3:27-53 and 11:17 – 12:14).

Merjanian does not specifically disclose that *the fingerprint sensor is embedded in one of the control keys and whereby activation of said one of said control keys reads fingerprint data of a user's finger, said control keys including at least some control keys disposed in a thumb actuated cross configuration, and said fingerprint sensor is integrated within a middle portion of the thumb operated cross configuration.* However, in an analogous art, Darbee teaches a remote control device with an OK, or PPV control key disposed within the middle portion of the thumb operated cross configuration

(see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon some assessment of the viewing habits or preferences of the user (3:31-39), or selecting the PPV option. Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PPV control key as this would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 29

Merjanian discloses *a remote control device comprising:*

- a housing (see at least FIG. 7);*
- electronic circuitry disposed within the housing (see at least FIG. 7);*
- a signal transmitter disposed within the housing (see at least FIG. 7);*
- a plurality of control keys disposed on an outer surface of the housing, at least some of the control keys operable by hand (see at least FIG. 7).*

Merjanian does not specifically disclose *at least some control keys disposed in a thumb actuated cross configuration; and a fingerprint sensor integrated within a middle portion of the thumb operated cross configuration control keys.* However, in an analogous art, Darbee teaches a remote control device with an OK, or PPV control key disposed within the middle portion of the thumb operated cross configuration (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon

identification of the user of the remote control or based upon some assessment of the viewing habits or preferences of the user (3:31-39), or selecting the PPV option. Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PPV control key as this would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 34

Merjanian discloses a *device comprising:*

- a housing (see at least FIG. 7);*
- electronic circuitry disposed within the housing (see at least FIG. 7);*
- a signal transmitter disposed within the housing (see at least FIG. 7);*
- a plurality of control keys disposed on an outer surface of the housing, at least some of the control keys operable by hand, the control keys including an activation key operable to activate the remote control device (see at least FIG. 7; it is noted that operating any of the buttons shown inherently activates the remote controller which does not need to be turned on per se with a button which is reserved only for turning on/off the remote controller).*

Merjanian does not specifically disclose that the fingerprint sensor is *integrated within the activation key*. However, in an analogous art, Darbee teaches a remote control device with an OK, or PWR control key (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon some assessment of the viewing habits or

preferences of the user (3:31-39). Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PWR control key as this would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 46

Merjanian discloses *a system for user recognition and customized content provisioning, the system comprising:*

a remote control device having a plurality of control keys, the remote device including a fingerprint sensor (see at least FIG. 7);

an apparatus capable of presenting customized content to the user controllable by activation of said plurality of control keys, the customized content selected dependent upon said fingerprint data of the user's finger (see at least (see at least 3:27-53).

Merjanian does not specifically disclose that the fingerprint sensor is *embedded in one of said control keys, whereby activation of said one of said control keys reads fingerprint data of a user's finger, said control keys include an activation key operable to activate the remote control device, and said fingerprint sensor is embedded in the activation key.* However, in an analogous art, Darbee teaches a remote control device with an OK, or PWR control key (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon some assessment of the viewing habits or preferences of the user (3:31-39). Because of the nature of the downloaded materials that depend

upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PWR control key as this would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 49

Merjanian discloses *an apparatus for content provisioning comprising:*

means for acquiring data related to a user without active user input or participation, the means for acquiring data including a remote control device having a plurality of control keys and a fingerprint sensor (see at least FIG. 7; as for the limitation *without active user input or participation*, the Office's interpretation of this requirement is that the user does not have to actively input any information or actually press any key to have the sensor read the fingerprint of the user as described by Merjanian at 11:30-31 – the user only need placing his/her digit on the sensor).

Merjanian does not specifically disclose that the fingerprint sensor is *embedded in one of the control keys, whereby activation of said one of said control keys reads fingerprint data of a user's finger, said control keys include an activation key operable to activate the remote control device, and said fingerprint sensor is embedded in the activation key*. However, in an analogous art, Darbee teaches a remote control device with an OK, or PWR control key (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon some assessment of the viewing habits or preferences of the user (3:31-39). Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint

sensor of Merjanian within the OK or PWR control key as this would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Claim 52

Merjanian discloses *a television system comprising:*

a remote control device having a plurality of control keys, the remote control device including a fingerprint sensor (see at least FIG. 7);

a processor communicatively coupled to the remote control device, the determining characteristics of the user based upon the fingerprint data (see at least 11:17 – 12:14); and

a display providing content to be viewed by the user, the content being customized for the user based upon the characteristics determined by the processor (see at least 3:27-53 and 11:17 – 12:14).

Merjanian does not specifically disclose that the fingerprint sensor is *embedded in one of said control keys, whereby activation of said one of said control keys reads fingerprint data of a user's finger, said control keys include an activation key operable to activate the remote control device, and said fingerprint sensor is embedded in the activation key.*

However, in an analogous art, Darbee teaches a remote control device with an OK, or PWR control key (see at least FIG. 1) for the purpose of selectively downloading advertising and programming data to be stored on the remote control depending upon identification of the user of the remote control or based upon some assessment of the viewing habits or preferences of the user (3:31-39). Because of the nature of the downloaded materials that depend upon the identification of the user, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to integrate the fingerprint sensor of Merjanian within the OK or PWR control key as this

would enable or activate the remote controller to download the materials subsequent to a successful validation of the id of the user, thereby providing the right materials to the right user.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Tuesday-Friday from 7:05 am to 5:35 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



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May 1, 2007